

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

WARREN BERES , <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Nos. 03-785L, 04-1456L, 04-
)	1457L, 04-1458L, 04-1459L, 04-
)	1463L, 04-1465L, 04-1466L, 04-
UNITED STATES,)	1467L, 04-1468L, 04-1469L, 04-
)	1471L, 04-1472L, 04-1473L, 04-
Defendant.)	1474L
)	
)	The Honorable Marian Blank Horn
)	

DECLARATION OF REID BROCKWAY

I, Reid Brockway, make the following declaration:

1. I am a United States citizen, a resident of the State of Washington, over the age of twenty-one, have personal knowledge of the facts stated herein and am competent to testify to the matters stated in this Declaration.

2. I and my wife, Susan Brockway, are Plaintiffs in this case. We purchased our property along East Lake Sammamish in 1973 and built our home on the property in 1992. Between 1973 and 1992 we lived nearby and used the property along the lake for recreational purposes.

3. The property had a treehouse, approximately 10 feet by 10 feet in the northeast third of the western half of the railroad right of way adjoining our property. We allowed children in the neighborhood to use the treehouse and play in

the woods from 1973 to 1992. Our daughter and her friends used and accessed that tree house from all directions and played in the woods every year from 1978 to 1992.

4. Attached hereto as Exhibit A is a true and correct copy of a photograph taken in approximately 1982 that shows family members sitting on our property. In the background, circled in red is where the treehouse was located and portions of that treehouse can be seen.

5. In the southern third of the western half of the right of way, we allowed our neighbors to maintain a vegetable and flower garden and a large compost pile from 1973 until 1992 as well. Those neighbors would share the vegetables and flowers with us. We effectively used the entire western half of the railroad right of way from 1973 to 1992.

6. I have reviewed the diagram prepared by Eric Labrie of ESM Consulting Engineers which is attached hereto as Exhibit B. This exhibit generally describes the area where the garden and treehouse were located prior to 1992.

7. In 1992, we started construction of our home on this property. At that time, we removed the treehouse and the garden that was in the railroad right of way. As we excavated for our home on the western portion of our lot, we placed fill material in the western half of the right of way to create a parking area.

8. Attached hereto as Exhibit C is a true and correct copy of a photograph taken in the mid 1990s which shows the western side of the railroad right of way showing that the vegetation in Exhibit A has been removed, trees and treehouse, and replaced with a mown lawn. We installed the lawn in 1993 and have mowed and

eradicated moles from that time period to the present. We park cars on that lawn occasionally. We also have continuously maintained a compost pile in the southeast corner of the western side of the railroad right of way. In about 1995, we planted two apple trees, which we prune and from which we harvest apples annually. This is the manner in which we used the western half of the railroad right of way from the early to mid-1990s to the present.

9. At no time has anyone ever suggested that we did not own the western half of the railroad right of way. We used it in an open and obvious manner and no one objected or claimed that it was not ours to use or that we needed permission from anyone.

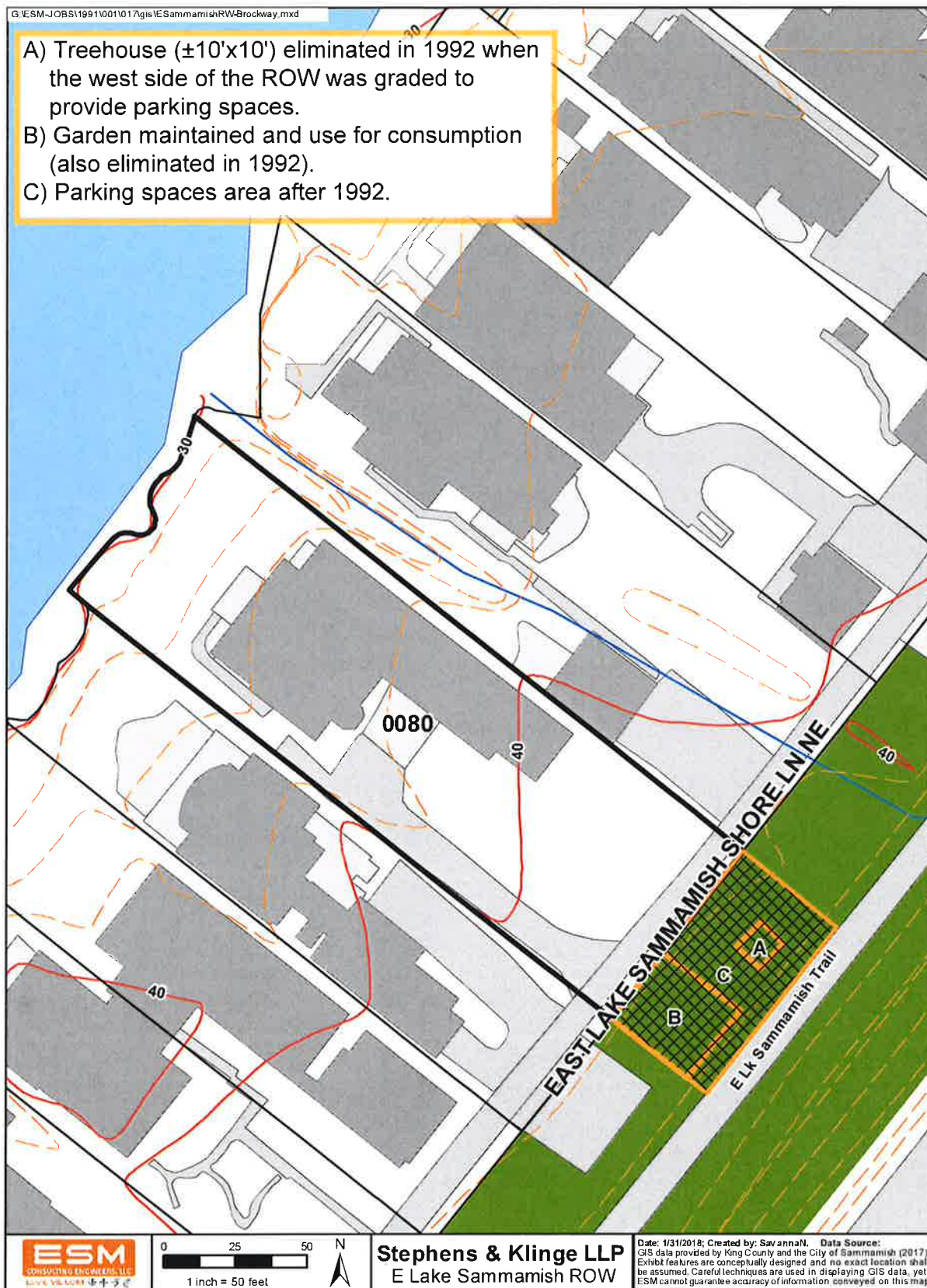
10. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct and was executed by me this 29th day of January, 2018, at Bellevue, Washington.



Reid Brockway



Ex. 7A









S&K 179

Ex. 7C